

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-4, 6-8, 10 and 12, remain pending in the application.

The rejection of claims 1-4, 6-8 and 10 under 35 USC §103(a) as being unpatentable over Luo et al. (Luo) is respectfully traversed.

In this rejection, it is advanced that the claimed ratio V would have been necessarily present in the Lyocell fibers taught by Luo. The basis of this position is that Luo discloses fibers having a denier of 3.1-19.5 and that this overlaps the claimed range of 6 – 21.7 dtex “wherein the fibers of this range will necessarily possess the claimed ratio V.”

However, this is an assumption based on a full working knowledge of the claimed subject matter. It is further based on the assumption that one would expect a continuous and linear gradient of the ratio V against titer – see paragraph 6 on page 2 of the Declaration filed with the last response. The fact that a sharp decrease occurs, is again submitted to be unexpected and that the claimed range is critical (as demonstrated by the Declaration and the appended data) and should be given appropriate weight – see MPEP 716.02(d) II.

The Applicants re-iterate that LUO is silent about the ratio V of the fibers disclosed therein. Applicants furthermore assert that it is not correct to assert that said ratio would necessarily have been present in the fibers taught by LUO. Rather to the contrary. LUO teaches a specific kind of fiber produced from cellulose-amine oxide solutions, i.e. fibers produced by a centrifugal spinning process and by a melt-blown spinning process (cf. LUO column 4, lines 49 ff.). Referring to Figures 5 (showing a commercial Lyocell fiber), 7 (showing a centrifugally spun fiber) and 11 (showing a melt-

blown fiber) of LUO, it is immediately apparent that the fibers taught by LUO (i.e. centrifugally spun fibers and melt-blown fibers) differ significantly from the "commercial" Lyocell fibers.

Especially, it can be clearly seen (cf. Figures 7 and 11, respectively) that the fibers taught by LUO show a significant variability in cross sectional diameter and cross sectional configuration. This is also recited in claim 1 of LUO. That is to say, this claim calls for Lyocell fibers characterized by variability in cross sectional diameter and cross sectional configuration along the fiber length.

Not only do the single fibers themselves show such significant variability, but there is also a big variability of the "average" diameters of the fibers, i.e. the fibers taught by LUO are a mixture of thinner and thicker fibers. This is a result of the specific spinning processes disclosed by LUO, i.e. centrifugal spinning and melt-blown spinning.

The specific spinning processes and the resulting irregular diameters of the fibers taught by LUO have a big influence on their tensile properties. Thus, it is not correct to assume that the irregular fibers taught by LUO must inherently have possessed a ratio V according to the claims of the present application.

Furthermore, even if LUO mentions fibers with a thicker denier generally in the specification, the examples clearly concentrate on the production of fibers with rather small denier, such as 1 denier (on average), cf. column 9, lines 5 to 8, or even very small denier, such as 0.5 or 0.25 denier (cf. example 4 of LUO), which is far below the lower threshold of pending claim 1 (6 dtex).

Finally, irrespective of what the PTO now purports to be admitted prior art due to an absence of a traverse, LUO *per se* is completely silent about the use of the fibers disclosed therein in the application fields according to claim 1 of the present application.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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